

THE STATE OF NEW HAMPSHIRE
SUPREME COURT
COMMITTEE ON JUDICIAL CONDUCT



ANNUAL REPORT

2003

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Judicial Conduct Committee

Annual Report

2003

The New Hampshire Judicial Conduct Committee met monthly during the year with the exception of the July meeting.

There was one special panel appointed during the year.

The Committee docketed fifty-eight grievances. They are broken down as follows:

Superior Court

Thirty-four grievances, involving thirty against judges, four against marital masters, and two involving a clerk's office.

District Court

Eighteen grievances, involving eighteen against judges and two against clerk's offices.

Family Court

Five grievances against judges.

Probate Court

Two grievances against judges.

(Note: these totals are greater than the sum of the docketed cases because they reflect several grievances involving more than one judge, or a combined grievance involving a judge and a clerk's office.)

Disposition

Three grievances remain outstanding as of the end of the year.

All other matters were dismissed by the Committee on the following grounds:

No Judicial Misconduct	34
Rulings of the Court	13
Insufficient allegations to proceed	5
One grievance filed with the Commission	1
One grievance failed to comply with the Committee's rules	1
Statute of Limitations	1

Of the total grievances the Committee requested written responses from the party complained of in twenty cases. The Executive Secretary reviewed the actual court files in eighteen cases. Finally, the Executive Secretary and/or one or more Committee Members read the transcript(s) or listened to tape recordings of court hearings in at least ten cases.

Even though the cases were dismissed, six letters of caution were issued, five to judges and one to a clerk of court. In addition, one grievance prompted a letter to the administrative judge concerning a possible misapplication of a statute by a District Court Judge.

Subject Matter

Most grievances seem to arise out of the Complainant's dissatisfaction with the rulings and decisions of the Court. The largest category of grievances was claims of bias by a judge shown by demeanor, or apparent favoritism to a party, or ignoring evidence and/or ruling contrary to the facts or law. Grievances similar in nature were a denial of due process and/or fair hearing.

A number of grievances alleged that the judge had violated court rules in terms of waiving deadlines or as to the introduction of evidence.

Two grievances involved the refusal by the court or the clerk's office to provide reasonable access to a party's court file.

One grievance, which is still under review, related to a judge's use of the judicial designation in matters unrelated to the judicial duties.

Members of the Committee

Alfred Catalfo, III (Attorney), Dover

Raymond Cloutier (Probate Court representative), Manchester

Patricia Coffey (Superior Court representative), Rye

Deborah Cooper (Attorney), Lebanon

Harland Eaton (public member), Auburn

Douglas Hatfield, Chair (District Court representative), Hillsborough

Elizabeth Lown (public member), Amherst

Lawrence O'Connell (public member), Durham

Jay Rosenfield (public member), New London

Robert Wilson, Vice Chair (public member), Hopkinton

Dana Zucker (Court Clerk representative), Laconia

Committee Status

In September 2003 the New Hampshire Legislature passed into law Chapter 319 of the Laws of 2003. This provided that as of January 1, 2004 “all complaints made against judges...shall be directed to...” the Judicial Conduct Commission, created in 2001 pursuant to RSA Chapter 494-A.

Members of the Committee discussed the implications of this legislation as to the Committee’s jurisdiction of grievances after January 1, and after considerable review and discussion voted unanimously to file a petition seeking instructions as to the Committee’s duties after to January 1, 2004 and addressing the Constitutional issues raised by the passage of 494-A and Chapter 319.

A petition was filed with the New Hampshire Supreme Court in December and was accepted by the Court with briefing deadlines of January 21 for the Committee and February 21 for the State’s reply. The date of oral argument is to be determined upon submission of the briefs.

The Committee’s request for temporary instructions was denied by the Court. The Committee voted that as of January 1 no new grievances would be docketed pending final resolution by the Court. All inquiries received after that date will be forwarded by the Executive Secretary to the Judicial Conduct Commission.

Respectfully submitted,

Executive Secretary